

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID POWELL,)
vs. Plaintiff,)
CITIBANK (SOUTH DAKOTA), N.A.,)
Defendant.)
) Case No. 08 cv 2755
) Judge Charles R. Norgle, Sr.
) Courtroom 2341
) Magistrate Judge Jeffrey Cole
) Courtroom 1838

MOTION TO DISMISS BY CITIBANK (SOUTH DAKOTA), N.A.

Pursuant to the Federal Rule of Civil Procedure 12(b)(6), defendant Citibank (South Dakota), N.A. (“Citibank”) hereby moves this Court for the entry of an Order dismissing the Complaint filed by Plaintiff David Powell (“Plaintiff”) on the grounds that the Complaint fails to allege facts sufficient to state a claim against Citibank. Specifically, Plaintiff fails to allege facts establishing claims for breach of contract, negligent misrepresentation or violation of the Fair Credit Reporting Act.

In support of this Motion, Citibank submits the accompanying Memorandum of Points and Authorities.

WHEREFORE, Defendant CITIBANK (SOUTH DAKOTA) N.A. moves this Court to dismiss David Powell’s Complaint in its entirety, and for such other and further relief that this Court deems just and appropriate.

Respectfully submitted,

s/Vincent Vigil

Vincent Vigil

Gonzalez, Saggio and Harlan, L.L.C.

35 E. Wacker Drive, Suite 500

Chicago, Illinois 60601

Phone: 312.236.0475

Fax: 312.236.1750

E-Mail: vincent_vigil@gshllc.com

**ATTORNEYS FOR DEFENDANT CITIBANK
(SOUTH DAKOTA) N.A.**

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2008, I electronically filed the foregoing with Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: N/A and I certify that I have mailed by United States Postal Service the document to the following non CM/ECF participant:

David Powell
P.O. Box 5282
Lansing, Illinois 60438

Respectfully submitted,

s/Vincent Vigil
Vincent Vigil
Gonzalez, Saggio and Harlan, L.L.C.
35 E. Wacker Drive, Suite 500
Chicago, Illinois 60601
Phone: 312.236.0475
Fax: 312.236.1750
E-Mail: vincent_vigil@gshllc.com